

**COMMONWEALTH OF KENTUCKY  
MINE SAFETY REVIEW COMMISSION  
ADMINISTRATIVE ACTION NO. 01-MSRC-002**

**COMMONWEALTH OF KENTUCKY,  
DEPARTMENT OF MINES AND MINERALS**

**COMPLAINANT**

**v.**

**LARRY ISON,  
LAWRENCE VANOVER, ET AL**

**RESPONDENTS**

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**FINAL ORDER REGARDING  
RESPONDENT LAWRENCE VANOVER**

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This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant and Respondent Lawrence Vanover, and the members of the Commission having reviewed the Settlement Agreement filed on March 5, 2003 in the matter herein, and the Commissioners being sufficiently advised,

**IT IS HEREBY ORDERED** as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The Respondent, Lawrence Vanover's Underground Mine Foreman's Certificate, # A-\*\*\*-\*\*, issued by the Commonwealth of Kentucky, shall be placed on probation for a period of two (2) years, effective March 5, 2003;
3. During said probationary period, if Respondent Lawrence Vanover commits any intentional violation of state or federal mine safety laws, or orders anyone to violate state or federal mine safety laws that places a miner in

imminent danger of death or serious injury, the KDMM may file a motion with the Mine Safety Review Commission to revoke certificate # A-\*\*\*-\*\* for the remainder of the probationary period;

4. The Settlement Agreement signed by the parties and filed with the Commission shall be incorporated by reference and attached hereto;

5. This Final Order shall be considered to constitute a “first offense” as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent Vanover, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13); and

6. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, Lawrence Vanover, in this matter. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission. Pursuant to KRS 351.194(8), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of an order.

Entered this \_\_\_\_\_ day of April 2003.

BAYARD V. COLLIER, CHAIR  
MINE SAFETY REVIEW COMMISSION

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing FINAL ORDER REGARDING RESPONDENT LAWRENCE VANOVER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this \_\_\_\_\_ day of April 2003:

HON. PAUL F. FAURI  
232 ST. CLAIR STREET  
P.O. BOX 1304  
FRANKFORT KY 40602  
*Attorney for Lawrence Vanover*

And by regular mail, postage pre-paid to:

HON. BILLY R. SHELTON  
JONES, WALTERS, TURNER & SHELTON, PLLC  
151 N. EAGLE CREEK DRIVE  
ONE FOUNTAIN PLAZA, STE. 101  
LEXINGTON KY 40509  
*Attorney for Larry Ison*

And a courtesy copy mailed to:

HON. STEPHEN A. SANDERS  
APPALACHIAN CITIZENS LAW CENTER, INC.  
207 W. COURT STREET, STE. 202  
PRESTONSBURG KY 41653  
*Attorney for Thelma Campbell*

And by messenger mail to:

COMMISSIONER FRANK DELZER  
DEPT. OF MINES & MINERALS  
1025 CAPITAL CENTER DRIVE  
FRANKFORT KY 40601

HON. TONY OPPEGARD  
GENERAL COUNSEL  
DEPT. OF MINES & MINERALS  
1025 CAPITAL CENTER DRIVE  
FRANKFORT KY 40601

And the original shall be kept on file:

MINE SAFETY REVIEW COMMISSION  
132 BRIGHTON PARK BLVD.  
FRANKFORT KY 40601

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DIANE SCHULER FLEMING  
GENERAL COUNSEL  
MINE SAFETY REVIEW COMMISSION

KENTUCKY MINE SAFETY REVIEW COMMISSION

KENTUCKY DEPT. OF MINES & MINERALS	)	
	)	
Complainant	)	
	)	
v.	)	Administrative Action No. 01-MSRC-002
	)	
	)	
CHARLES HENSLEY, LARRY ISON &	)	
LAWRENCE VANOVER, ET AL.	)	
	)	
Respondents	)	
	)	

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**SETTLEMENT AGREEMENT BETWEEN KDMM & LAWRENCE VANOVER**

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Come the Complainant, the Kentucky Department of Mines & Minerals (“KDMM”) and Respondent Lawrence Vanover (“Vanover”), and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the dismissal of this action against him, Vanover - without admitting the allegations made against him - hereby agrees to the **PROBATION OF HIS UNDERGROUND MINE FOREMAN’S CERTIFICATE (A-\*\*\*-\*\*) FOR A PERIOD OF TWO (2) YEARS**, effective upon the signing of this Settlement Agreement by both parties. During said period of probation, Vanover agrees to comply with all state and federal mine safety laws and regulations. If Vanover commits any intentional violation of a state or federal mine safety law during said 2-year probationary period - or if he orders anyone to violate a state or federal mine safety law - that places a miner in imminent danger of death or serious injury, KDMM may file a motion with the Mine Safety Review Commission (“the Commission”) to

revoke his mine foreman's certificate for the remainder of the probationary period.<sup>1</sup> In that event, Vanover would be entitled to a hearing before the Commission on the allegations against him.

Vanover also agrees that this Settlement Agreement, and any final order issued herein by the Commission, will be considered by the Commission to constitute a "first offense", as that term is defined at 805 KAR 8:010, Section 1 (5); and that any future adjudication against him by the Commission will be deemed a "subsequent offense" as defined at 805 KAR 8:010, Section 1 (13).

The parties state that they have carefully read and considered this Settlement Agreement prior to signing the Agreement, and that they understand and agree to its terms and provisions. KDMM and Vanover acknowledge that there are no other promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.

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LAWRENCE VANOVER  
\*\*\*\*\*  
Hazard, Kentucky \*\*\*\*\*

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FRANK X. DELZER, Commissioner  
Kentucky Dept. of Mines & Minerals  
P.O. Box 2244  
Frankfort, Kentucky 40602

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DATE

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DATE

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<sup>1</sup> If the circumstances warranted, KDMM would also retain the right to file a separate disciplinary action with the Commission seeking other penalties against the Respondent for his conduct.

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Settlement Agreement was mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2003, to Paul F. Fauri, Attorney-at-Law, P.O. Box 1304, Frankfort, Kentucky 40602; Billy R. Shelton, Attorney-at-Law, JONES, WALTERS, TURNER & SHELTON, 151 N. Eagle Creek Drive, One Fountain Plaza, Suite 310, Lexington, Kentucky 40509; and Stephen A. Sanders, Attorney-at-Law, APPALACHIAN CITIZENS LAW CENTER, 207 West Court Street, Suite 202, Prestonsburg, Kentucky 41653.

\_\_\_\_\_  
TONY OPPEGARD

General Counsel  
KENTUCKY DEPT. OF MINES & MINERALS